IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6056 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AMANULLAKHAN ABDULRAHIMKHAN

Versus

DEPUTY COLLECTOR (STAMP DUTY)

Appearance:

MR ANAND L SHARMA for Petitioner

MR HM BHAGAT for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 24/04/2000

ORAL JUDGEMENT

1. Heard learned counsel for the parties. Vide registered sale deed dated 20/3/1992 the petitioner purchased the house in question. In the registered sale deed the sale consideration of this property was shown of

Rs. 1.02.001/-. On 9/2/1996 after giving notice of inquiry, the respondent no.1 held that the petitioner is guilty of under-valuation of the property and consequently an amount of Rs. 8070/- towards the additional stamp duty and Rs. 250/- as penalty was demand. The notice has been issued to the petitioner for depositing this amount. Instead of depositing the amount, the petitioner filed this Special Civil Application in this Court. In this Special Civil Application, the notice has been issued to the respondents on 20th September, 1999. This writ petition has been filed in the Court on 14th August 1996. The order dated 9th February, 1996 of the respondent no.1 is appealable and this is not disputed by the learned counsel for the petitioner. I find sufficient merits in the contention of the learned counsel for the respondents that the petitioner has filed this Special Civil Application only when he could not file appeal within limitation. This writ petition deserves to be dismissed only on the ground that the petitioner has alternative remedy in the matter and same has not been availed of. In the Special Civil Application the petitioner has stated that the alternative remedy available is not efficacious as the petitioner is required to deposit the amount before the appeal is entertained. But it is hardly a ground to by pass this alternative remedy. Otherwise also I fail to see any justification in this approach of the petitioner for the reason that though this writ petition has been filed on 14th August, 1996, till 8th September, 1999 i.e. for 3 years nothing has been done in this matter and if the petitioner has not been protected by this Court by grant of any interim relief in his favour, as the order of the respondent no.1 is not stayed by this Court, the possibility of recovery of the amount in dispute by the respondent no.1 from the petitioner could not be excluded. The ground raised by the petitioner that the law has been amended and the limitation prescribed for initiation of such proceedings is the six years from the date of the registered documents. This initiation is within six years of the date of registration and has been made after amendment of the Act. The contention of the learned counsel for the petitioner that the house in dispute is very old house and it was in dilapidated condition is hardly of any merits and substance. This aspect has been considered by the respondent no.1. while passing impugned order and necessary relief accordingly is granted to the petitioner in arriving at the valuation of the house keeping its condition. Otherwise also I do not find any illegality in the order of the respondent no.1. The order of the respondent no.1 is just and reasonable order. In the

result this Special Civil Application is fails and same dismissed. Notice is discharged. Interim relief, if any, granted stands vacated. No order as to costs.

(S.K.Keshote,J)

(Vipul)